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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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SANDRA K. HARRHAM, CLERK
BY: 

5 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

6 **IN AND FOR THE COUNTY OF YAVAPAI**

7 **STATE OF ARIZONA,**

8 Plaintiff,

9 vs.

10 **STEVEN CARROLL DEMOCKER,**

11 Defendant.

CAUSE NO. P1300CR201001325

REPLY RE JAMES KNAPP

Assigned to Hon. Warren R. Darrow
Division PTB

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14 The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney and
15 her deputy Jeffrey Paupore, hereby replies to Defendant's response to the State's Motion in
16 Limine regarding James Knapp.

17 Defendant's response is disjointed, confusing and completely misses the point of the
18 motion in limine. Defendant wants to present "complete Knapp evidence" but fails to explain
19 how character evidence of a deceased person is legally admissible at trial. Furthermore, the
20 Defendant fails to show how Mr. Knapp's death is relevant to this case.

21 The State's motion in limine does not attack or even address the third party culpability
22 defense. The motion seeks preclusion of evidence of James Knapp's character and evidence
23 surrounding his death pursuant to Rules 401, 402 403, 404, and 608 of the Arizona Rules of
24 Evidence.

25 On January 7, 2009 James Knapp was found deceased at his residence located at 3099 Peaks View
26 Court, Prescott, AZ. The incident was investigated by the Prescott Police Department. An autopsy was
performed by Dr. Philip Keen on January 8, 2009. Dr. Keen determined the cause of death was by gunshot
wound to the thorax which was self-inflicted and determined the manner of death to be suicide.

1 There is no legal basis to allow character evidence of Mr. Knapp's alleged mental state,
2 drug use, desperate search for money, his scams and failed relationships, nor is it relevant on how
3 he died. The only reason Defendant wants the jury hear this evidence is to paint Mr. Knapp as the
4 bad guy and to confuse the jury.

5 RULE 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT;

6 (a) *Character evidence generally.* Evidence of a person's character **is not admissible**
7 for the purpose of proving that he acted in conformity therewith on a particular occasion,
8 **except:** (3) *Character of witness.* Evidence of the character of a witness, as provided in Rules
9 607, 608 and 609. (*emphasis added*).

10 Rules 607, 608 and 609 allows character evidence for impeachment purposes against a
11 witness who has testified. James Knapp can not testify because he is dead so the exceptions to
12 Rule 404 (a) (3) do not apply to him. The Defendant has not and can not over come Rule 404(a)
13 (3) preclusion of Mr. Knapp's character evidence in this trial.

14 Character evidence is not admissible to prove the witness acted in conformity with
15 character on a particular occasion. The rationale is that character evidence may be of slight
16 probative value but very prejudicial. It distracts the trier of fact from the central issues in the case
17 and subtly permits rewarding the "good" person and punishing the "bad" person because of their
18 respective characters, despite what the evidence shows actually happened.

19 Character evidence is inadmissible to prove that a person "acted in conformity
20 therewith on a particular occasion." *State v. Fish*, 222 Ariz. 109, 117, ¶ 20, 213 P.3d 258,266 (App. 2009);
21 *Ritchie v. Krasner*, 221 Ariz. 288, 211 P.3d 1272 (App. 2009); *State v. Cano*, 154 Ariz. 447, 743 P.2d
22 956 (App 1987). Under the principles of relevancy, the evidence can not be unfairly prejudicial,
23 cumulative or misleading which are the reasons Defendant wants to bring in Mr. Knapp's character and
24 circumstances of his death.

25 RULE 401 RELEVANT EVIDENCE

26 "Relevant evidence" means evidence having any tendency to make the existence of any
fact that is of consequence to the determination of the action more probable or less probable
than it would be without the evidence.

"If evidence has no probative value, it is inadmissible under Rule 401, without even reaching
Rule 403." *State v. Oliver*, 158 Ariz. 22, 28, 760 P.2d 1071, 1077 (1988).

1 Evidence surrounding his death is not probative of the issues at trial. This evidence is not
2 relevant and therefore inadmissible under the Arizona Rules of Evidence.

3 **CONCLUSION**

4 This Court is moved for an Order precluding character evidence of James R. Knapp, as
5 well as evidence surrounding his death. Evidence of Mr. Knapp's character is inadmissible
6 under any legal theory. Evidence of the death of James Knapp is not relevant to any issue, fact
7 or circumstance in this case.

8 **RESPECTFULLY SUBMITTED** this 17th day of August, 2011.

9 **Sheila Sullivan Polk**
10 **YAVAPAI COUNTY ATTORNEY**

11 By: 

12 **Jeffrey Paupore**
13 Deputy County Attorney
14

15 **COPY** of the foregoing **Emailed** this
16 17th day of August, 2011, to:

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